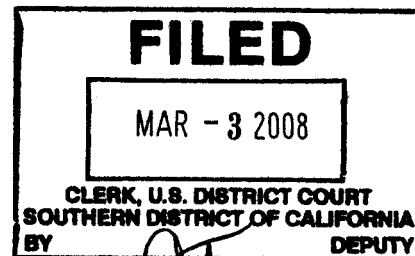


1 KAREN P. HEWITT
United States Attorney
2 CHRISTINA M McCALL
Assistant United States Attorney
3 California State Bar No. 234139
United States Attorney's Office
4 Federal Office Building
880 Front Street, Room 6293
5 San Diego, California 92101
Telephone: (619) 557-6760
6 Attorneys for Plaintiff
7 UNITED STATES OF AMERICA



8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

Case No. 07CR3270-W

11 Plaintiff,

12 v.

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

13 MIGUEL CEDENO-MARTINEZ (1),

14 Defendant.
15

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
17 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Christina
18 M. McCall, Assistant United States Attorney, and defendant MIGUEL CEDENO-MARTINEZ, by
19 and through and with the advice and consent of defense counsel, Robert Rexrode, Esq., that:

20 1. Defendant agrees to execute this stipulation on or before the change-of-plea hearing
21 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
22 intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to count 4 of
23 the Indictment charging defendant with a non-mandatory minimum count of Transporting Illegal
24 Aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii) and 18 U.S.C. § 2.

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1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government prior to the disposition date set by
3 the Court.

4 3. The material witnesses, Juan Antonio Garcia-Jimenez, Jose Salvador Esparza-
5 Casteneda, and Angelica Valdez-Legaria, in this case:

- 6 a. Are aliens with no lawful right to enter or remain in the United States;
7 b. Entered or attempted to enter the United States illegally on or about
8 November 13, 2007;
9 c. Were guided across the border on foot by co-defendant Jonathan Astorga-
10 Madrigal through the southbound lanes of Interstate 5 and followed Astorga-Madrigal and entered
11 or attempted to enter a vehicle driven by Defendant, with the intent to further their entrance into the
12 United States;
13 d. Were each paying, or having others pay on their behalf, \$2,500 to defendant
14 or others to be brought into the United States illegally and/or transported illegally to their destination
15 therein; and,
16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 4. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

- 22 a. The stipulated facts set forth above shall be admitted as substantive evidence;
23 b. The United States may elicit hearsay testimony from arresting agents
24 regarding any statements made by the material witness(es) provided in discovery, and such testimony
25 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
26 of (an) unavailable witness(es); and,

27 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Miguel Cedeno-Martinez and Jonathan Astorga-Madrigal

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1 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
2 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
3 waives the right to confront and cross-examine the material witness(es) in this case.

4 5. By signing this stipulation and joint motion, defendant certifies that defendant has
5 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
6 further that defendant has discussed the terms of this stipulation and joint motion with defense
7 counsel and fully understands its meaning and effect.


8 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
9 immediate release and remand of the above-named material witness(es) to the Department of
10 Homeland Security for return to their country of origin.

11 It is STIPULATED AND AGREED this date.


12 Respectfully submitted,

13 KAREN P. HEWITT
14 United States Attorney

15 Dated: 2-29-08.

16 
CHRISTINA M. McCALL
Assistant United States Attorney

17 Dated: 2/24/08

18 
ROBERT REXRODE
19 Defense Counsel for Miguel Ceden-Martinez

20 Dated: 2/24/2008.

21 
MIGUEL CEDENO-MARTINEZ
22 Defendant

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24
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26
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28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Miguel Ceden-Martinez and Jonathan Astorga-Madrigal

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ORDER

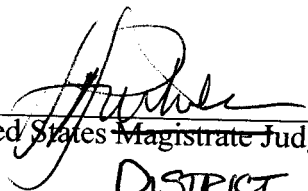
Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 3/3/08.


United States Magistrate Judge
DISTRICT